

ORIGINAL

**FILED**

DISTRICT COURT OF GUAM

OCT - 3 2005

MARY L.M. MORAN  
CLERK OF COURT

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7 Attorneys for the United States of America

8  
9 **IN THE UNITED STATES DISTRICT COURT**  
10 **FOR THE TERRITORY OF GUAM**

11  
12 UNITED STATES OF AMERICA, ) MAGISTRATE CASE NO. 05-00038  
13 )  
Plaintiff, )  
14 )  
vs. ) **PLEA AGREEMENT**  
15 )  
ROSE MARIE MENO, )  
16 aka ROSE FEGURGUR, )  
17 Defendant. )  
18

19 Pursuant to Rule 11(e)(1)(B), the United States and the defendant, ROSE MARIE MENO  
20 a/k/a ROSE FEGURGUR enter into the following plea agreement:

21 1. The defendant, ROSE MARIE MENO a/k/a ROSE FEGURGUR, agrees to enter a  
22 guilty plea to an Information charging her with Count I, Driving Under the Influence, 16 G.C.A.  
23 section 18102(a) and (b), as assimilated by 18 U.S.C. section 13 (misdemeanor) and Count IV of  
24 Unlawful Possession of Military Identification Card in violation of Title 18, United States Code,  
25 Section 701 (misdemeanor). The government will dismiss Counts II and III upon sentencing.

26 2. The defendant, ROSE MARIE MENO a/k/a ROSE FEGURGUR, further agrees to  
27 fully and truthfully cooperate with Federal and territorial law enforcement agents concerning  
28 their investigation of stolen, unauthorized and/or forged military identification cards. She agrees

1 to testify fully and truthfully before any grand juries and at any trials or proceedings if called  
2 upon to do so for the United States, subject to prosecution for perjury for not testifying truthfully.  
3 The United States will make this cooperation known to the Court prior to the defendant's  
4 sentencing. The defendant further understands that she remains liable and subject to prosecution  
5 for any non-violent Federal or Territorial offenses that she does not fully advise the United  
6 States, or for any material omissions in this regard. In return for this cooperation, the United  
7 States agrees not to prosecute defendant in the District of Guam or the Commonwealth of the  
8 Northern Mariana Islands for any other non-violent Federal offenses now known to the  
9 government or which she reveals to Federal authorities.

10 3. The defendant further agrees to submit to a polygraph examination by any qualified  
11 Federal polygraph examiner. The defendant understands that such polygraph examinations may  
12 include, but will not be limited to, her knowledge of or involvement in stolen unauthorized  
13 and/or forged military identification cards and related activities, and her knowledge of others'  
14 involvement in such activities. Defendant understands that the government will rely on the  
15 polygraph in assessing whether she has been fully truthful.

16 4. The defendant understands that the maximum sentence for Driving Under the  
17 Influence (1<sup>st</sup> Offense), is a fine of no less than \$1000.00 but no more than \$5000.00; minimum  
18 48 hours of imprisonment with a maximum term of imprisonment of 1 year; loss of drivers  
19 license for 6 months; and a term of probation not to exceed 2 years, together with any other  
20 conditions and/or punishment that the Court deems fair and reasonable. The defendant further  
21 understands that the maximum sentence for Unlawful Possession of a Military /Identification  
22 card is a \$5000.00 fine; imprisonment for 6 months, or both. Any sentence of incarceration shall  
23 include a term of supervised release of not more than three (3) years. The total of \$25 special  
24 assessment fee must be paid prior to or upon sentencing. If defendant cooperates as set forth in  
25 Paragraphs 2 and 3, the government will recommend that defendant receive the minimum term of  
26 incarceration recommended by the Sentencing Guidelines, and credit for time served, if any. If  
27 defendant does not fully cooperate as set forth in Paragraphs 2 and 3, the government will  
28 recommend a sentence of incarceration within the Guidelines range it may deem appropriate.

1 The government will recommend a fine within the Sentencing Guidelines range. If  
2 defendant is financially unable to immediately pay the fine in full, defendant agrees to make a  
3 full disclosure of her financial status to the United States Attorney's Office by completing a  
4 Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment schedule.  
5 Defendant understands that, by law, interest accrues on any remaining balance of the debt.  
6

7 5. The defendant understands that to establish the following violations, the government  
8 must prove each of the following elements beyond a reasonable doubt:

9 A. Count I: Driving Under the Influence, a violation of 16 G.C.A. section 18102(a) and  
10 (b) as assimilated under 18 U.S.C. section 13,

11 First, that the defendant was either : 16 G.C.A. section 18102(a), under the  
12 influence of an alcoholic beverage or any controlled substance, or under the  
13 combined influence of an alcoholic beverage and any controlled substance, or; 16  
14 G.C.A section 18102(b), the defendant had eight one-hundredths of one percent  
15 (0.08%) or more, by weight, of alcohol in her blood;

16 Second, that the defendant was operating and/or in physical control of her  
17 vehicle;

18 Third, that the offense occurred on land acquired for the use of the United States  
19 and under the exclusive or concurrent jurisdiction thereof, under 18 U.S.C. section  
20 7(3).

21 B. Count IV: Unlawful Possession of Military Identification Card, 18 U.S.C. section  
22 701:

23 First, that the defendant possessed an identification card of the design prescribed  
24 by the head of an Agency of the United States;

25 Second, that the possession and or use of the identification card was not  
26 authorized.

27 6. The defendant understands that the Sentencing Guidelines apply to this offense. The  
28 government and the defendant stipulate to the following facts for purposes of the Sentencing  
Guidelines:

1954 JP  
a. The defendant was born in 1952, and is a citizen of the United States.

b. If the defendant cooperates with the United States by providing information concerning the unlawful activities of others, the government agrees that any self-incriminating information so provided will not be used against defendant in assessing her punishment, and therefore, pursuant to § 1B1.8 of the Sentencing Guidelines, this information should not be used in determining the applicable guidelines range.

c. On or about June 7, 2005, the defendant, while operating and in physical control of a vehicle belonging to Demotelia Viera, entered the front gate of Naval Base Guam Housing area located at Old Apra, Santa Rita, Guam and presented a military identification card belonging to a Jose Fegurur. The defendant was not authorized to use the military identification card presented and was not otherwise authorized to enter the Old Apra Housing area onboard Naval Base Guam. The defendant's blood alcohol concentration at the time of the offense was 0.247.

d. The defendant understands that notwithstanding any agreement of the parties, the United States Probation Office will make an independent application of the Sentencing Guidelines. The defendant acknowledges that should there be discrepancies in the final Sentencing Guidelines range projected by her counsel or any other person, such discrepancy is not a basis to withdraw her guilty plea.

7. The defendant understands that this plea agreement depends on the fullness and truthfulness of her cooperation. Therefore, defendant understands and agrees that if she should fail to fulfill completely each and every one of her obligations under this plea agreement, or make material omissions or intentional misstatements or engage in criminal conduct after the entry of her plea agreement and before sentencing, the government will be free from its obligations under the plea agreement; thus defendant, in addition to standing guilty of the matters to which she has pled pursuant to this agreement, shall also be fully subject to criminal prosecution for other crimes. In any such prosecution, the prosecuting authorities, whether Federal, State, or Local, shall be free to use against her, without limitation, any and all information, in whatever form, that she has provided pursuant to this plea agreement or otherwise; defendant shall not assert any

1 claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of  
2 Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other provision of law, to  
3 attempt to bar such use of the information.  
4

5 8. The defendant understands that her sentencing may be continued, at the sole discretion  
6 of the United States, until after the indictment and trial of any associates involved. This will also  
7 enable the Court to see the full degree of the defendant's cooperation. The defendant therefore  
8 waives any right she may have to any speedy sentencing and hereby agrees to any continuance of  
9 her sentencing date as it may become necessary.

10 9. The defendant agrees to waive any right to appeal or to collaterally attack this  
11 conviction. The defendant reserves the right to appeal the sentence actually imposed in this case.

12 10. The defendant acknowledges that she has been advised of her rights as set forth  
13 below prior to entering into this plea agreement. Specifically, defendant has been fully advised  
14 of, has had sufficient opportunity to reflect upon, and understands the following:

15 a. The nature and elements of the charge and the mandatory minimum penalty  
16 provided by law, if any, and the maximum possible penalty provided by law;

17 b. Her right to be represented by an attorney;

18 c. Her right to plead not guilty and the right to be tried by a jury and at that trial, the  
19 right to be represented by counsel, the right to confront and cross-examine witnesses against her,  
20 and the right not to be compelled to incriminate herself, that is, the right not to testify;

21 d. That if she pleads guilty, there will not be a further trial of any kind on the charges  
22 to which such plea is entered so that by entering into this plea agreement, she waives, that is,  
23 gives up, the right to a trial;

24 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask her questions  
25 about the offenses to which she has pled, under oath, and that if she answers these questions  
26 under oath, on the record, her answers may later be used against her in prosecution for perjury or  
27 false statement if an answer is untrue;  
28

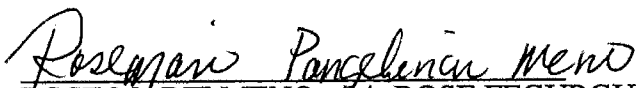
1 f. That she agrees that the plea agreement is voluntary and not a result of any force,  
2 threats or promises apart from this plea agreement;

3 g. That she reads, writes and speaks the English language and has no need for an  
4 interpreter;

5 h. That she has read the plea agreement and understands it.

6 i. The Defendant is satisfied with the representation of her lawyer and feels that her  
7 lawyer has done everything possible for her defense.  
8

9  
10 DATED: 9/29/05

  
ROSE MARIE MENO a/k/a ROSE FEGURGUR  
Defendant

11  
12 DATED: 9/29/05

 FOR  
\_\_\_\_\_  
JOAQUIN C. ARRIOLA, JR.  
Attorney for Defendant

13  
14  
15 LEONARDO RAPADAS  
16 United States Attorney  
Districts of Guam and NMI

17  
18 DATED: 9/30/05

By:

  
\_\_\_\_\_  
STEVE CHIAPPETTA  
Special Assistant U.S. Attorney

19  
20  
21 DATED: 9-30-05

  
\_\_\_\_\_  
RUSSELL C. STODDARD  
First Assistant U.S. Attorney